

Senate Daily Reader

Monday, February 06, 2006

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State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

390M0109

SENATE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1007** -

01/31/2006

Introduced by: The Committee on Agriculture and Natural Resources at the request of the
State Brand Board

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to the composition of
2 livestock brands and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 40-19-7 be amended to read as follows:

5 40-19-7. The board shall reject any brands formed from any letter, number, or symbol which
6 is a duplicate of, or in conflict with, any brand previously registered for that location on an
7 animal. Any brand approved for registration shall be composed from the combination of no less
8 than two ~~or~~ and no more than three letters, numbers, or symbols, except for sheep. Only the
9 following ~~shall~~ may be accepted for registration:

10 (1) Letters A to P and R to Z, in the plain gothic style of print;

11 (2) Arabic numerals from two to nine, inclusive;

12 (3) Symbols, including diamond, half diamond, arrow, mill iron, heart, box, half box,
13 quarter circle, bar, cross, triangle, or slash;

14 (4) Character brands that were cancelled by the board for nonrenewal, but only if



1 registered by the person who owned the brand at the time it was cancelled, or if the
2 person is deceased, by the spouse or by the lineal descendants of the person.

3 ~~All brands that are~~ Any brand that is similar to any previously registered brand or that ~~the~~
4 ~~board determines may~~ in the board's determination could be changed to resemble a previously
5 registered brand may be rejected. Location of a brand on an animal ~~shall be~~ is construed as part
6 of the brand. A variation in the size of a letter, number, or figure does not constitute a new brand
7 and shall be rejected.

8 Section 2. Whereas, this Act is necessary for the immediate preservation of the public peace,
9 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and
10 effect from and after its passage and approval.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

527M0319 **HOUSE APPROPRIATIONS COMMITTEE ENGROSSED**
NO. HB 1012 - 01/20/2006

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct an advanced
2 materials processing and joining laboratory foundry addition to the Metallurgy Foundry
3 Building at the South Dakota School of Mines and Technology, to make an appropriation
4 therefor, and to declare an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 Section 1. The Board of Regents may contract for the construction, completion, furnishing,
7 equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer,
8 electric facilities, architectural and engineering services, asbestos, abatement, and such other
9 services as may be required to construct, an advanced materials processing and joining
10 laboratory foundry addition to the Metallurgy Foundry Building at the South Dakota School of
11 Mines and Technology in Rapid City, in Pennington County, at an estimated cost of one
12 hundred twenty-five thousand dollars.

13 Section 2. There is hereby appropriated to the Board of Regents one hundred twenty-five
14 thousand dollars (\$125,000) from the federal monies allocated by the Department of Defense
15 Army Research Laboratory to support advanced research conducted at South Dakota School of



1 Mines and Technology to construct the addition described in section 1 of this Act.

2 Section 3. The Board of Regents may accept, transfer, and expend any funds obtained for
3 these purposes from federal sources, gifts, contributions, or any other source, all of which shall
4 be deemed appropriated to the project authorized by this Act.

5 Section 4. The design and construction of the facility approved by this Act shall be under
6 the general supervision of the Bureau of Administration as provided in § 5-14-2. The
7 commissioner of the Bureau of Administration and the executive director of the Board of
8 Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures
9 authorized by this Act.

10 Section 5. No general fund dollars may be used for the maintenance and repair of the facility
11 authorized by this Act.

12 Section 6. Whereas, this Act is necessary for the support of the state government and its
13 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
14 full force and effect from and after its passage and approval.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0241

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **HB 1036** - 01/20/2006

Introduced by: The Committee on Health and Human Services at the request of the
Department of Health

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the certification of
2 an optometrist from another state and to increase the fee for a certificate of registration.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 36-7-13 be amended to read as follows:

5 36-7-13. By way of substitution for the requirements in subdivisions 36-7-11(3), (4), and
6 (5) and in ~~§ 36-7-12~~ §§ 36-7-12, 36-7-12.1 and 36-7-31, a candidate for licensure in this state
7 may be given a certificate of registration by paying a fee of ~~fifty~~ one hundred seventy-five
8 dollars upon proof to the Board of Examiners by certified copy of the certificate of registration
9 issued to ~~said~~ the candidate by another ~~state~~ United States jurisdiction where the requirements
10 for registration ~~shall be~~ are deemed by the South Dakota State Board to be the equivalent to
11 those provided by this chapter; ~~provided such state shall accord like privileges to holders of~~
12 ~~certificates of the South Dakota State Board~~ if the candidate passes the examination
13 administered by the board required by this chapter or presents satisfactory evidence to the board
14 of having passed substantially similar examinations in another jurisdiction, and the candidate



1 has practiced optometry in ~~such~~ the other state for at least five consecutive years immediately
2 prior to ~~his~~ the candidate's application for registration in South Dakota. The board may
3 promulgate rules, pursuant to chapter 1-26, to establish standards for licensure through
4 endorsement pursuant to this section, including the level and status of licensure required, the
5 evidence required to establish that the requirements for registration in the jurisdiction in which
6 the candidate is licensed are substantially similar to those required by this chapter, the procedure
7 and contents required for submitting the application, and any additional education, testing, or
8 training necessary to ensure the competency of the candidate.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0325

HOUSE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **HB 1039** -
01/20/2006

Introduced by: The Committee on Health and Human Services at the request of the
Department of Human Services

1 FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to the disposition of
2 funds collected on local exchange service lines, cellular telephones, and radio pager devices.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 49-31-51 be amended to read as follows:

5 49-31-51. There is hereby imposed an access fee of fifteen cents per local exchange service
6 line per month, fifteen cents per cellular telephone per month in accordance with the provisions
7 provided in subdivision 34-45-1(7), and fifteen cents per radio pager device per month to pay
8 for the program established in § 49-31-47. The access fee shall be paid by each local exchange
9 subscriber to a local exchange service, or by each cellular telephone or radio pager service
10 subscriber to the service provider, unless the subscriber is otherwise exempt from taxation. The
11 access fee shall be reported as a separate line or service and collected on the regular monthly
12 bill by each local exchange telecommunications company or other service provider operating
13 in this state. On or before the last day of the month following each two-month period, every
14 telecommunications company providing local exchange service or other service provided



1 specified in this section shall remit to the Department of Revenue and Regulation on forms
2 furnished by the department the amount of the access fee collected for that two- month period.
3 The secretary of revenue and regulation may grant an extension of not more than five days for
4 filing a remittance. The Department of Revenue and Regulation shall deposit ninety percent of
5 the money received under §§ 49-31-47 to 49-31-56, inclusive, into the telecommunication fund
6 for the deaf and ten percent in the telecommunication fund for other disabilities. The balance
7 in each fund in excess of an average of three months operating expenditures from the previous
8 state fiscal year may be used by the Department of Human Services to purchase
9 telecommunication assistive devices, communication aids and devices, home modifications and
10 assistive devices, and infrastructure and operational expenses to enhance communication
11 capacity for persons with disabilities and operational expenses for interpreter certification and
12 services for the deaf.

13 Section 2. The provisions of this Act are repealed on July 1, 2009.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

471M0008

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1086 - 01/25/2006

Introduced by: Representatives Glenski, Garnos, Hanks, Heineman, Kraus, Lange, McCoy, Miles, Murschel, Nelson, Rausch, Rave, Schafer, Sigdestad, Street, Tidemann, Weems, and Wick and Senators Peterson (Jim), Gant, Greenfield, Kloucek, and Koetzle

1 FOR AN ACT ENTITLED, An Act to restrict the rights of certain sex offenders related to
2 adoption or visitation of children.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 25-6-4 be amended to read as follows:

5 25-6-4. No child may be adopted without the consent of the child's parents. However, if it
6 is in the best interest of the child, the court may waive consent from a parent or putative father
7 who:

8 (1) Has been convicted of any crime punishable by imprisonment in the penitentiary for
9 a period that, in the opinion of the court, will deprive the child of the parent's
10 companionship for a critical period of time;

11 (2) Has, by clear and convincing evidence, abandoned the child for six months or more
12 immediately prior to the filing of the petition;

13 (3) Has substantially and continuously or repeatedly neglected the child and refused to
14 give the child necessary parental care and protection;



- 1 (4) Being financially able, has willfully neglected to provide the child with the necessary
2 subsistence, education, or other care necessary for the child's health, morals, or
3 welfare or has neglected to pay for such subsistence, education, or other care if legal
4 custody of the child is lodged with others and such payment ordered by the court;
- 5 (5) Is unfit by reason of habitual abuse of intoxicating liquor or narcotic drugs;
- 6 (6) Has been judicially deprived of the custody of the child, if the adjudication is final
7 on appeal to the court of last resort or the time for an appeal has expired; ~~or~~
- 8 (6A) Has caused the child to be conceived as a result of rape or incest; or
- 9 (7) Does not appear personally or by counsel at the hearing to terminate parental rights
10 after notice pursuant to §§ 25-5A-11 and 25-5A-12 which was received at least thirty
11 days prior to the hearing.

12 Section 2. That chapter 25-4A be amended by adding thereto a NEW SECTION to read as
13 follows:

14 If it is in the best interest of the child, the court may prohibit, revoke, or restrict visitation
15 rights to a child for any person who has caused the child to be conceived as a result of rape or
16 incest.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

583M0582

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **HB 1190** - 02/01/2006

Introduced by: Representatives Hennies, Cutler, Elliott, Frost, Gassman, Hanks, Jerke, Krebs, Kroger, Lange, McLaughlin, Murschel, Novstrup, O'Brien, Rave, Rhoden, Rounds, Sigdestad, and Van Etten and Senators Abdallah, Bartling, Broderick, Duniphan, Earley, Gray, Hansen (Tom), Kelly, Kloucek, Knudson, Koetzle, McCracken, Nesselhuf, Olson (Ed), and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to specifically exclude ridden animals and bicycles from
2 violations of the DUI statutes.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 32-23 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The provisions of this chapter do not apply to any person who is riding:

7 (1) A horse or other animal; and

8 (2) A bicycle, tricycle, or other unpowered foot-pedal conveyance.



State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

671M0139

HOUSE ENGROSSED NO. **HJR 1002** - 01/17/2006

Introduced by: Representatives Michels, Haley, Heineman, Hunhoff, and Putnam and
Senators Olson (Ed), Broderick, Gray, Peterson (Jim), and Schoenbeck at the
request of the Constitutional Revision Commission

1 A JOINT RESOLUTION, To repeal certain voided constitutional provisions regarding term
2 limits for United States senators and representatives.

3 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF SOUTH
4 DAKOTA, THE SENATE CONCURRING THEREIN:

5 Section 1. That at the next general election held in the state, the repeal of Article III, section
6 32 of the Constitution of the State of South Dakota, as set forth in section 2 of this Joint
7 Resolution, which is hereby agreed to, shall be submitted to the electors of the state for
8 approval.

9 Section 2. That Article III, section 32 of the Constitution of the State of South Dakota, be
10 repealed.

11 § 32. ~~Commencing with the 1992 election, no person may be elected to more than two~~
12 ~~consecutive terms in the United States senate or more than six consecutive terms in the United~~
13 ~~States house of representatives.~~



State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

257M0080

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HJR 1003** - 01/27/2006

Introduced by: Representatives Michels, Haley, Heineman, Hunhoff, and Putnam and
Senators Olson (Ed), Broderick, Gray, Peterson (Jim), and Schoenbeck at the
request of the Constitutional Revision Commission

1 A JOINT RESOLUTION, To revise certain constitutional provisions regarding the Legislature.
2 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF SOUTH
3 DAKOTA, THE SENATE CONCURRING THEREIN:

4 Section 1. That at the next general election, the following amendments to Article III and
5 Article IV of the Constitution of the State of South Dakota, as set forth in sections 2 to 10,
6 inclusive, of this Joint Resolution, which are hereby agreed to, shall be submitted to the electors
7 of the state for approval.

8 Section 2. That Article III, section 2 of the Constitution of the State of South Dakota, be
9 amended to read as follows:

10 § 2. ~~After the Legislature elected for the years 1937 and 1938 the~~ The number of members
11 of the house of representatives shall not be less than fifty nor more than seventy-five, and the
12 number of members of the senate shall not be less than twenty-five nor more than thirty-five.

13 ~~The sessions of the Legislature shall be biennial except as otherwise provided in this~~
14 ~~Constitution.~~



Section 3. That Article III, section 6 of the Constitution of the State of South Dakota, be amended to read as follows:

§ 6. The terms of office of the members of the Legislature shall be two years; they shall receive for their services the salary fixed by law under the provisions of § 2 of article XXI of this Constitution, ~~and five cents for every mile of necessary travel in going to and returning from the place of meeting of the Legislature on the most usual route.~~

No person may serve more than four consecutive terms or a total of eight consecutive years in the senate and more than four consecutive terms or a total of eight consecutive years in the house of representatives. However, this restriction does not apply to partial terms to which a legislator may be appointed ~~or to legislative service before January 1, 1993.~~

A regular session of the Legislature shall ~~be held in each odd-numbered year and shall not exceed forty legislative days, excluding Sundays, holidays, and legislative recess, except in cases of impeachment, and members~~ not exceed forty legislative days in each odd-numbered year and shall not exceed thirty-five legislative days in each even-numbered year except in cases of impeachment. Sundays, holidays, and days of legislative recess shall not be included as legislative days. Members of the Legislature shall receive no other pay or perquisites except salary, expenses, per diem, and mileage as provided by law.

~~A regular session of the Legislature shall be held in each even-numbered year beginning with the year 1964 and shall not exceed thirty-five legislative days, excluding Sundays, holidays and legislative recess, except in cases of impeachment, and members of the Legislature shall receive no other pay or perquisites except salary and mileage.~~

Section 4. That Article III, section 13 of the Constitution of the State of South Dakota, be amended to read as follows:

§ 13. Each house shall keep a journal of its proceedings and publish the same ~~from time to~~

1 ~~time, except such parts as require secrecy, and the~~ as provided by law. The yeas and nays of
2 members on any question shall be taken at the desire of one-sixth of those present and entered
3 upon the journal.

4 Section 5. That Article III, section 14 of the Constitution of the State of South Dakota, be
5 amended to read as follows:

6 § 14. In all elections to be made by the Legislature the members thereof shall vote ~~viva voce~~
7 and their votes shall be entered in the journal.

8 Section 6. That Article III, section 15 of the Constitution of the State of South Dakota, be
9 amended to read as follows:

10 § 15. ~~The sessions of each house and of the committee of the whole shall be open, unless~~
11 ~~when the business is such as ought to be kept secret~~ All legislative sessions, joint sessions, and
12 committee meetings shall be open to the public unless a two-thirds majority of the membership
13 declares the business is such as ought to be kept secret. No votes may be taken at any session
14 or meeting closed to the public.

15 Section 7. That Article III, section 17 of the Constitution of the State of South Dakota, be
16 amended to read as follows:

17 § 17. Every bill shall be ~~read twice~~ entered upon the journal, by number and title ~~once~~, when
18 introduced; and ~~once upon~~ shall be read, by number and title, prior to final passage; ~~but one~~
19 ~~reading at length may be demanded at any time before final passage.~~

20 Section 8. That Article III, section 29 of the Constitution of the State of South Dakota, be
21 amended to read as follows:

22 § 29. Notwithstanding any general or special provisions of the Constitution, in order to
23 insure continuity of state and local governmental operations in periods of emergency resulting
24 from ~~disasters~~ a natural or man-made disaster or a disaster caused by enemy attack, the

1 Legislature shall have the power and the immediate duty ~~(1)~~ to provide for prompt and
2 temporary succession to the powers and duties of public offices, of whatever nature and whether
3 filled by election or appointment, the incumbents of which may become unavailable for carrying
4 on the powers and duties of such offices, and ~~(2)~~ to adopt such other measures as may be
5 necessary and proper for insuring the continuity of governmental operations. In the exercise of
6 the powers hereby conferred the Legislature shall in all respects conform to the requirements
7 of this Constitution except to the extent that in the judgment of the Legislature so to do would
8 be impracticable or would admit of undue delay.

9 Section 9. That Article III be amended by adding thereto a NEW SECTION to read as
10 follows:

11 § 33. The members of the senate shall elect one member to preside as president of the
12 senate.

13 The members of the house of representatives shall elect one member to preside as speaker
14 of the house of representatives.

15 Section 10. That Article IV, section 5 of the Constitution of the State of South Dakota, be
16 amended to read as follows:

17 § 5. ~~The lieutenant governor shall be president of the senate but shall have no vote unless~~
18 ~~the senators be equally divided.~~ The lieutenant governor shall perform the duties and exercise
19 the powers that may be delegated to him by the Governor.

20 Section 11. The provisions of sections 9 and 10 of this Joint Resolution are effective
21 January 1, 2011.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

958M0428

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 152** - 01/25/2006

Introduced by: Senators Schoenbeck, Abdallah, Apa, Bogue, Duenwald, Duniphan, Greenfield, Hansen (Tom), Hanson (Gary), Koskan, McCracken, and Moore and Representatives Hackl, Cutler, Davis, Dennert, Faehn, Fryslie, Garnos, Halverson, Hennies, Jerke, Klaudt, Koistinen, Michels, Nelson, Pederson (Gordon), Putnam, Rausch, Rave, and Tidemann

1 FOR AN ACT ENTITLED, An Act to appropriate money for the design and construction of
2 National Guard armories and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is hereby appropriated from the general fund the sum of one million seven
5 hundred eighty-nine thousand dollars (\$1,789,000), or so much thereof as may be necessary, and
6 twenty-one million one hundred twenty thousand dollars (\$21,120,000), or so much thereof as
7 may be necessary, of federal funds authority available to the Department of Military and
8 Veterans Affairs for the design and construction of an armory in Watertown.

9 Section 2. The amounts appropriated in section 1 of this Act are for the following purposes:

10 (1) Armory design, one hundred seventy-eight thousand nine hundred dollars (\$178,900)
11 from the general fund and one million nine hundred twenty thousand dollars
12 (\$1,920,000) from federal funds available to the Department of Military and Veterans
13 Affairs;



(2) Armory construction, one million six hundred ten thousand one hundred dollars (\$1,610,100) from the general fund and nineteen million two hundred thousand dollars (\$19,200,000) from federal funds available to the Department of Military and Veterans Affairs.

Section 3. There is hereby appropriated from the general fund the sum of five hundred fifty thousand dollars (\$550,000), or so much thereof as may be necessary, and three million three hundred thousand dollars (\$3,300,000), or so much thereof as may be necessary, of federal funds authority available to the Department of Military and Veterans Affairs for the design and construction of an armory in Mobridge.

Section 4. The amounts appropriated in section 3 of this Act are for the following purposes:

(1) Armory design, fifty-five thousand dollars (\$55,000) from the general fund and three hundred thousand dollars (\$300,000) from federal funds available to the Department of Military and Veterans Affairs;

(2) Armory construction, four hundred ninety-five thousand dollars (\$495,000) from the general fund and three million dollars (\$3,000,000) from federal funds available to the Department of Military and Veterans Affairs.

Section 5. In addition to the amounts appropriated in sections 1 and 3 of this Act, the Department of Military and Veterans Affairs may accept and expend for the purpose of this Act any funds obtained from gifts, contributions, or any other source if the acceptance and expenditure is approved in accordance with § 4-8B-10.

Section 6. The design and construction of this project shall be under the general charge and supervision of the Department of Military and Veterans Affairs. The money appropriated in sections 1 and 3 of this Act shall be paid on warrants drawn by the state auditor on vouchers approved by the adjutant general of the Department of Military and Veterans Affairs or the state

1 engineer.

2 Section 7. Any amounts appropriated in this Act not lawfully expended or obligated shall
3 revert in accordance with § 4-8-21.

4 Section 8. Whereas, this Act is necessary for the support of the state government and its
5 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
6 full force and effect from and after its passage and approval.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

444M0384

SENATE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 184** - 02/01/2006

Introduced by: Senator Kooistra and Representative Gillespie

1 FOR AN ACT ENTITLED, An Act to provide for the notification of certain members of the
2 armed forces concerning screening for exposure to depleted uranium.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

5 (1) "Depleted uranium," uranium containing less uranium-235 than the naturally
6 occurring distribution of uranium isotopes;

7 (2) "Eligible member," a member who served in Bosnia or Kosovo or in the Persian Gulf
8 War, as defined in 38 USC 101, as amended to January 1, 2006, or in an area
9 designated as a combat zone by the President of the United States during Operation
10 Enduring Freedom or Operation Iraqi Freedom;

11 (3) "Member of the armed forces" or "member," a member of the armed forces of the
12 United States, including the South Dakota National Guard, who is a resident of this
13 state;

14 (4) "Veteran," a veteran as defined in § 33-17-1 who served as an eligible member.

15 Section 2. After September 30, 2006, any eligible member or veteran who returns or has



1 returned to this state after service in an area designated as a combat zone by the President of the
2 United States and who has been assigned a risk level I or II for depleted uranium exposure by
3 the member's or veteran's branch or service, or any other member or veteran who has reason to
4 believe that the member or veteran was exposed to depleted uranium during such service, shall
5 be informed upon request of the member's or veteran's right to a medical evaluation for exposure
6 to depleted uranium to be conducted at the nearest United States Department of Veterans Affairs
7 medical facility. The Department of Military and Veterans Affairs shall promulgate rules
8 pursuant to chapter 1-26 to provide for the notification of members and veterans required
9 pursuant to this Act.

10 Section 3. Before January 1, 2007, the adjutant general of the South Dakota National Guard
11 shall submit a report to the Legislature on the scope and adequacy of training received by
12 members of the armed forces on detecting whether their service as eligible members is likely
13 to entail, or to have entailed, exposure to depleted uranium. The report shall include an
14 assessment of the feasibility and cost of adding predeployment training concerning potential
15 exposure to depleted uranium and other toxic chemical substances and the precautions
16 recommended under combat and noncombat conditions while in a combat zone.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

643M0609

SENATE COMMERCE COMMITTEE ENGROSSED NO. **SB 194** - 02/02/2006

Introduced by: Senators Nesselhuf, Hanson (Gary), Kloucek, Kooistra, and Olson (Ed) and
Representatives Dykstra, Bradford, Hargens, Murschel, Pederson (Gordon),
Rounds, and Sigdestad

1 FOR AN ACT ENTITLED, An Act to revise the definition of wine for farm wineries.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 35-12-1 be amended to read as follows:

4 35-12-1. Terms used in this chapter mean:

5 (1) "Farm winery," any winery operated by the owner of a South Dakota farm and
6 producing table, sparkling, or sacramental wines from grapes, grape juice, other fruit
7 bases, or honey, or wine as defined in subdivision (2), with a majority of the
8 ingredients grown or produced in South Dakota;

9 (2) ~~"Table, sparkling, and sacramental wines," any beverage made without rectification~~
10 ~~or fortification and containing not more than eighteen percent alcohol by volume and~~
11 ~~made by the fermentation of grapes, grape juice, other fruits, or honey~~ "Wine," any
12 beverage made without rectification, except for the purpose of fortification, from the
13 fermentation of grapes, grape juice, other fruit bases, or honey, with or without
14 adding brandy or alcohol, and containing not less than one-half percent and not more



1 than twenty-four percent alcohol by volume.

2 Section 2. That § 35-12-2 be amended to read as follows:

3 35-12-2. The secretary of the Department of Revenue and Regulation may issue a farm
4 winery license to the owner or operator of a farm winery located within the state and producing
5 table wines, sparkling wines, and sacramental ~~wine~~ wines, or wine as defined in subdivision (2).
6 Licenses may be issued and renewed for an annual fee of one hundred dollars, which is in lieu
7 of all other license fees required by chapter 35-4. The fee shall be deposited in the general fund.

8 Section 3. That § 35-12-3 be amended to read as follows:

9 35-12-3. Except as otherwise specified in this chapter, all provisions of this title apply to the
10 production, sale, possession, and consumption of table wines, sparkling wines, and sacramental
11 wines, or wine as defined in subdivision (2), produced by a farm winery.

12 Section 4. That § 35-12-4 be amended to read as follows:

13 35-12-4. The holder of a farm winery license may manufacture wine in the state from South
14 Dakota produced or grown grapes, grape juice, other fruit bases, or honey. If South Dakota
15 produced or grown grapes, grape juice, other fruits, or honey are not available in quantities
16 sufficient to constitute a majority of the table or sparkling wine, or wine as defined in
17 subdivision (2), produced by a farm winery, the holder of the farm winery license may file an
18 affidavit with the secretary of the Department of Revenue and Regulation stating this fact and
19 requesting that the secretary approve the use of imported products by the winery. If the secretary
20 approves, the farm winery may use imported products and shall continue to be governed by the
21 provisions of this chapter. The secretary's approval is effective for a period of one year, after
22 which the farm winery shall use South Dakota grown or produced grapes, grape juice, other
23 fruits, or honey unless the farm winery license holder files a new affidavit and request with the
24 secretary and the secretary approves the request.

1 Section 5. That § 35-12-5 be amended to read as follows:

2 35-12-5. A license issued pursuant to § 35-12-2 authorizes the sale on the farm winery
3 premises of table wine, sparkling wines, or sacramental wines, or any wine as defined in
4 subdivision (2), produced by the farm winery at on-sale or off-sale, in retail, or wholesale lots
5 in total quantities not in excess of fifty thousand gallons in a calendar year, glassware, wine
6 literature and accessories, food products, South Dakota made products, and the dispensing of
7 free samples of wines offered for sale. Sales at on-sale and off-sale may be made at any time
8 during the week except on Sundays when the on-sale and off-sale sales are restricted to between
9 twelve noon and twelve midnight.

10 Section 6. That § 35-12-7 be amended to read as follows:

11 35-12-7. There is hereby levied on all table and sparkling wines, and wine as defined in
12 subdivision (2), manufactured or produced by a South Dakota winery an excise tax imposed at
13 the same rates and collected and administered in the same manner as the tax imposed on wine
14 in chapter 35-5. Sacramental wines are exempt from the tax imposed by this section.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0677

SENATE COMMERCE COMMITTEE ENGROSSED NO. **SB 200** - 02/02/2006

Introduced by: The Committee on Commerce at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to authorize the risk pool board to allow additional
2 enrollees into the risk pool under certain circumstances.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 58-17-121 be amended to read as follows:

5 58-17-121. The board has the general powers and authority enumerated by §§ 58-17-68, 58-
6 17-70, 58-17-85, and 58-17-113 to 58-17-142, inclusive, and, in addition to the responsibilities
7 in § 58-17-119, may:

- 8 (1) Enter into any contract as necessary or proper to carry out §§ 58-17-68, 58-17-70, 58-
9 17-85, and 58-17-113 to 58-17-142, inclusive;
- 10 (2) Take any legal action necessary or proper for recovery of any assessments for, on
11 behalf of, or against participating carriers;
- 12 (3) Take any legal action necessary to avoid the payment of improper claims against the
13 risk pool or the coverage provided by or through the risk pool;
- 14 (4) Use medical review to determine that care is clinically appropriate and cost effective
15 for the risk pool;



- 1 (5) Establish appropriate rates, scales of rates, rate classifications, and rating
2 adjustments, none of which may be unreasonable in relation to the coverage provided
3 and the reasonable operational expenses of the risk pool;
- 4 (6) Issue risk pool plans on an indemnity, network, or provision of service basis and may
5 design, utilize, contract, or otherwise arrange for the delivery of cost effective health
6 care services, including establishing or contracting with preferred provider
7 organizations, health maintenance organizations, and other limited network provider
8 arrangements in providing the coverage required by §§ 58-17-68, 58-17-70, 58-17-
9 85, and 58-17-113 to 58-17-142, inclusive;
- 10 (7) Create appropriate legal, actuarial, and other committees necessary to provide
11 technical assistance in the operation of the risk pool, plan and other contract design,
12 and any other functions within the authority of the risk pool;
- 13 (8) Provide, by including a provision in its plans, for subrogation rights by the risk pool
14 for situations in which the risk pool pays expenses on behalf of an individual who is
15 injured or suffers a disease under circumstances creating a liability upon another
16 person to pay damages to the extent of the expenses paid by the risk pool, but only
17 to the extent the damages exceed the plan deductible and coinsurance amounts paid
18 by the enrollee; and
- 19 (9) Allow an applicant who is not otherwise eligible for coverage pursuant to § 58-17-85
20 to enroll in the risk pool if all of the following are met:
 - 21 (a) The applicant is covered by an individual health benefit plan that is no longer
22 being marketed in this state and has a premium rate that exceeds two hundred
23 percent of the applicable rate, based upon that person's rating characteristics,
24 charged to risk pool enrollees;

1 **(b) The risk pool's financial solvency would not be impaired by enrolling the**
2 **applicants under this subdivision;**

3 **(c) Sufficient federal funding exists to cover expected losses for those enrolled**
4 **pursuant to this subdivision; and**

5 **(d) The number of applicants enrolled into the risk pool pursuant to this**
6 **subdivision in any given calendar year does not exceed three percent of the**
7 **total number of covered persons in individual health benefit plans that are no**
8 **longer being marketed in this state.**

9 Nothing in §§ 58-17-68, 58-17-70, 58-17-85, and 58-17-113 to 58-17-142, inclusive,
10 constitutes a waiver of immunity.